

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

APOTEX, INC. and BERNARD C. SHERMAN,

Plaintiffs,

Case Nos. 01-CV-0482
02-CV-1604

v.

HONORABLE AVERN COHN

EON LABS MANUFACTURING, INC.,

Defendant.

_____ /

ORDER

This is a patent case. On February 23, 2007, the Court entered a Memorandum and Order Regarding Attorney Fees and Expenses (Attorney Fee Order). In the Attorney Fee Order, the Court observed that Eon's counterclaims for unenforceability were moot, citing Technimark, Inc. v. Crellin, Inc., 14 F. Supp. 2d 762 (M.D.N.C. 1998). The Court, however, did not formally dismiss the counterclaims; as such, there is a question as to whether the Attorney Fee Order is appealable. See International Electronic Corp. v. Hughes Aircraft Co., ___ F.3d. ___, 2007 WL 189341 (Fed. Cir. Jun 26, 2007). Accordingly, this order is entered to formalize that in light of the Court's decision of February 23, 2007, Eon's counterclaims are DISMISSED as MOOT. This case is at an end.

SO ORDERED.

Dated: March 07, 2007
Detroit, Michigan

s/Avern Cohn

AVERN COHN
UNITED STATES DISTRICT JUDGE